

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: COLUMBIA UNIVERSITY
PATENT LITIGATION

MDL NO. 04-01592

IMMUNEX CORPORATION, a Washington
Corporation and AMGEN INC., a Delaware
Corporation,

Civil Action No. 04-10740-MLW

C. D. Cal. No. CV 03-4349 MRP (CWx)

Plaintiffs,

vs.

THE TRUSTEES OF COLUMBIA
UNIVERSITY in the City of New York,
a New York Corporation,

Defendant.

AND RELATED COUNTERCLAIM

**AMGEN INC.'S AND IMMUNEX CORPORATION'S MOTION TO COMPEL
DEFENDANT TO PRODUCE DR. SIMINOVITCH FOR HIS DEPOSITION OR
IN THE ALTERNATIVE FOR ENTRY OF LETTERS ROGATORY**

Amgen Inc. and Immunex Corporation (collectively "Amgen") hereby move this Court for an order compelling The Trustees of Columbia University ("Columbia") to produce Dr. Louis Siminovitch for a deposition and to produce his documents because Dr. Siminovitch is retained by and under the control of Columbia. In the alternative, Amgen requests that the Court enter the Letters Rogatory, attached hereto as Exhibit A, to begin the discovery process in Canada, because Dr. Siminovitch lives in Canada. Columbia assents to the entry of Letters Rogatory.

Regardless of the relief granted, Amgen requests that the current deadline for completing Dr. Siminovitch's deposition, September 30, 2004, be extended to allow sufficient time to secure his deposition. Columbia also assents to the requested extension of time.

The bases for Amgen's motion are more fully set forth in the brief in support of this motion.

Dated: September 24, 2004

Respectfully submitted,

IMMUNEX CORPORATION and AMGEN INC.
By their attorneys,

/s/ Eileen M. Herlihy

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Certificate of Conference Under Local Rules

In accordance with the Local Rule 37.1(b) and Local Rule 7.1, Amgen's counsel, Eileen Herlihy, certifies that she conferred with Columbia's counsel, Amanda Tessar, on September 24, 2004 regarding Amgen's motion for an order requiring Columbia to produce Dr. Siminovitch for a deposition but was unable to reach an agreement. In this conference, Columbia's counsel assented to Amgen's request that the Court enter Letters Rogatory regarding Dr. Siminovitch, and assented to Amgen's request for an extension of time to take Dr. Siminovitch's deposition.

/s/ Eileen M. Herlihy
Eileen M. Herlihy

CERTIFICATE OF SERVICE

I hereby certify that I caused a true copy of the document to be served by e-mail on September 24, 2004, upon the following parties.

/s/ Kara Krolikowski

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